

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**UNION INSURANCE COMPANY
OF PROVIDENCE, and
EMPLOYERS MUTUAL CASUALTY
COMPANY,**

Plaintiffs,

v.

**FLO-SYSTEMS, INC., and FSI
TANKS & SILOS, INC.,**

Defendants.

Case No. 3:21-cv-00700-SPM

JUDGMENT IN A CIVIL ACTION

McGLYNN, District Judge:

IT IS ORDERED AND ADJUDGED that the Motion to Enter Final Judgement is **GRANTED**. Pursuant to the Stipulation of Judgment dated October 26, 2021, (Doc. 20) Plaintiffs had and have no duty to defend or indemnify Defendants under commercial general liability insurance policy no. 5S7-67-01-18 issued by Union Insurance Company of Providence to Flo-Systems, Inc. as the named insured, effective from October 1, 2017 through October 1, 2018 (the “Union Policy”), or under excess liability insurance policy no. 5J7-67-01-18 issued by Employers Mutual Casualty Company to Flo-Systems, Inc. as the named insured, effective from October 1, 2017 through October 1, 2018 (the “EMC Policy”), in connection with the lawsuit styled *City of O’Fallon, Missouri v. Du-Con, Inc., et al.* pending in the Circuit Court of the County of St. Charles, Eleventh Judicial Circuit, under case no. 1911-CC00494 (the “Underlying Lawsuit”), for the following reasons:

- (A) FSI Tanks & Silos does not qualify as an insured, additional Insured, or contractual indemnitee of any insured under the Union Policy or the EMC Policy.
- (B) The Insuring Agreement of the Union Policy and the EMC Policy is not satisfied because the Underlying Lawsuit does Not allege “property damage” caused by an “occurrence.”
- (C) The Insuring Agreement of the Union Policy and the EMC Policy is not satisfied because of Flo-Systems, Inc.’s knowledge of one or more allegations raised in the Underlying Lawsuit Prior to the inception of the policies.

JUDGMENT is entered in favor of Plaintiffs and against Defendants. Each party to bear their own costs.

DATED: October 29, 2021.

**MARGARET M. ROBERTIE,
Clerk of Court**

**By: s/ Jackie Muckensturm
Deputy Clerk**

**APPROVED: s/ Stephen P. McGlynn
STEPHEN P. MCGLYNN
U.S. District Judge**